

## § 521.1

- 521.23 Subpoenas for attendance at hearing.
- 521.24 Protective order.
- 521.25 Fees.
- 521.26 Form, filing and service of papers.
- 521.27 Computation of time.
- 521.28 Motions.
- 521.29 Sanctions.
- 521.30 The hearing and burden of proof.
- 521.31 Determining the amount of penalties and assessments.
- 521.32 Location of hearing.
- 521.33 Witnesses.
- 521.34 Evidence.
- 521.35 The record.
- 521.36 Post-hearing briefs.
- 521.37 Initial decision.
- 521.38 Reconsideration of initial decision.
- 521.39 Appeal to the USIA Director.
- 521.40 Stays ordered by the Department of Justice.
- 521.41 Stay pending appeal.
- 521.42 Judicial review.
- 521.43 Collection of civil penalties and assessments.
- 521.44 Right to administrative offset.
- 521.45 Deposit in Treasury of United States.
- 521.46 Compromise or settlement.
- 521.47 Limitations.

AUTHORITY: 22 U.S.C. 2658; 31 U.S.C. 3801–3812.

SOURCE: 56 FR 25028, June 3, 1991, unless otherwise noted.

### § 521.1 Basis and purpose.

(a) *Basis.* This part implements the Program Fraud Civil Remedies Act of 1986, Public Law 99–509, sections 6101–6104, 100 Stat. 1874 (October 21, 1986), codified at 31 U.S.C. 3801–3812. The Act requires each authority head to promulgate regulations necessary to implement the provisions of the statute (31 U.S.C. 3809).

(b) *Purpose.* (1) This part establishes administrative procedures for imposing civil penalties and assessments against persons who make, submit, or present, or cause to be made, submitted, or presented, false, fictitious, or fraudulent claims or written statements to the United States Information Agency or to its agents, and

(2) Specifies the hearing and appeal rights of persons subject to allegations of liability for such penalties and assessments.

(c) *Special considerations abroad.* Where a party, witness or material evidence in a proceeding under these regulations is located abroad, the investigating official, reviewing official or ALJ, as the case may be, may adjust

the provisions below for service, filing of documents, time limitations, and related matters to meet special problems arising out of that location.

### § 521.2 Definitions.

*ALJ* means an Administrative Law Judge in USIA appointed pursuant to 5 U.S.C. 3105 or detailed to USIA pursuant to 5 U.S.C. 3344.

*Benefit* means, in the context of “statement,” anything of value, including but not limited to any advantage, preference, privilege, license, permit, favorable decision, ruling, status, or loan guarantee.

*Claim* means any request, demand, or submission—

(1) Made to USIA for property, services or money (including money representing grants, loans, insurance or benefits);

(2) Made to a recipient of property, services or money from USIA, or to a party to a contract with USIA—

(i) For property or services if the United States—

(A) Provided such property or services;

(B) Provided any portion of the funds for the purchase of such property or services; or

(C) Will reimburse such recipient or party for the purchase of such property or services; or

(ii) For the payment of money (including money representing grants, loans, insurance, or benefits) if the United States—

(A) Provided any portion of the money requested or demanded; or

(B) Will reimburse such recipient or party for any portion of the money paid on such request or demand; or

(3) Made to USIA which has the effect of decreasing an obligation to pay or account for property, services, or money.

*Complaint* means the administrative complaint served by the reviewing official on the defendant under § 521.7.

*Defendant* means any person alleged in a complaint under § 521.7 to be liable for a civil penalty or assessment under § 521.3.

*Director* means Director of the United States Information Agency.

*Government* means the United States Government.

*Individual* means a natural person.

*Initial decision* means the written decision of the ALJ required by § 521.10 or § 521.37, and includes a revised initial decision issued following a remand or a motion for reconsideration.

*Investigating Official* means the Inspector General for USIA or an officer or employee of the Office of Inspector General designated by the Inspector General and serving in a position for which the rate of basic pay is not less than the minimum rate of basic pay for grade GS-16 under the General Schedule.

*Knows or has reason to know* means that a person, with respect to a claim or statement—

(1) Has the actual knowledge that the claim or statement is false, fictitious, or fraudulent;

(2) Acts in deliberate ignorance of the truth or falsity of the claim or statement; or

(3) Acts in reckless disregard of the truth or falsity of the claim or statement.

*Makes*, wherever it appears, shall include the terms *presents*, *submits* and *causes to be made*, *presented*, or *submitted*. As the context requires, *making* or *made* shall likewise include the corresponding forms of such terms.

*Person* means any individual, partnership, corporation, association, or private organization and includes the plural of that term.

*Representative* means an attorney who is a member in good standing of the bar of any State, Territory, or possession of the United States or the District of Columbia or the Commonwealth of Puerto Rico.

*Reviewing official* means the General Counsel of USIA or his designee who is:

*USIA* means the United States Information Agency.

(1) Not subject to supervision by, or required to report to, the investigating official;

(2) Not employed in the organizational unit of USIA in which the investigating official is employed; and

(3) Is serving in a position for which the rate of basic pay is not less than the minimum rate of basic pay for grade GS-16 under the General Schedule.

*Statement* means any representation, certification, affirmation, document, record, or accounting or bookkeeping entry made—

(1) With respect to a claim or to obtain the approval or payment of a claim (including relating to eligibility to make a claim); or

(2) With respect to (including relating to eligibility for)—

(i) A contract with, or a bid or proposal for a contract with; or

(ii) A grant, loan, or benefit from, USIA, or any State, political subdivision of a State, or other party, if the United States Government provides any portion of the money or property under such contract or for such grant, loan, or benefit, or if the Government will reimburse such State, political subdivision, or party for any portion of the money or property under such contract or for such grant, loan, or benefit.

USIA means the United States Information Agency.

#### **§ 521.3 Basis for civil penalties and assessments.**

(a) *Claims*. (1) Any person who makes claim that the person knows or has reason to know—

(i) Is false, fictitious, or fraudulent;

(ii) Includes or is supported by any written statement which asserts a material fact which is false, fictitious, or fraudulent;

(iii) Includes or is supported by any written statement that—

(A) Omits a material fact;

(B) Is false, fictitious, or fraudulent as a result of such omission; and

(C) Is a statement in which the person making such statement has a duty to include such material fact; or

(iv) Is for payment for the provision of property or services which the person has not provided as claimed; shall be subject, in addition to any other remedy that may be prescribed by law, to a civil penalty of not more than \$5,000 for each such claim.

(2) Each voucher, invoice, claim form, or other individual request or demand for property, services, or money constitutes a separate claim.

(3) A claim shall be considered made to USIA, a recipient, or party when such claim is actually made to an